IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.774 OF 2006
IN
COMPANY PETITION NO.698 OF 2000

Shatrughan K.Pahuja & Anr. .. Petitioners.
Vs.
Official Liquidator,
High Court, Bombay M/s.Oceana
Textile Mils Pvt. Ltd.
(In liqn.) & Ors. .. Respondent.
And
Ashar Industrial Corporation .. Petitioner.

Mr.Vishwajit P.Sawant i/b Ms.Kiran Kamat for the applicants.
Mr.Dinesh P.Shah for the respondent.
Mrs.K.V.Gautam, Dy.O.L. present.

CORAM : D.B.BHOSALE, J.
DATED : 11TH OCTOBER, 2007.

P.C.:

. Heard learned counsel for the applicants, the petitioner and the respondent-company in company petition No.698 of 2000.

2. By this application the applicants have prayed for setting aside the order dated 2.8.2005 passed by the learned Single Judge in company petition No.698 of 2000 by which the company was ordered to be wound up. The applicants have also prayed for dismissal of the company petition No.698 of 2000 as infructuous contending that they have

satisfied the claim of the petitioner.

3. This company petition for winding up was admitted on 4th October, 2000. It was duly advertised and published and the order of winding up was also issued on 2nd August, 2005. Inspite of publication of the advertisement none had appeared for the applicant-company nor any reply was filed controverting the assertions raised in the petition. In the circumstances the petition was made absolute and the applicant-company was ordered to be wound up.

4. The official liquidator has filed an affidavit stating therein that pursuant to the order passed by this court the claims from the creditors and workers were invited by issuing advertisement in Free Press Journal on 8th June, 2007. The last date of filing the claim was 31st July, 2007. The official liquidator has further stated that in response to the said advertisement he has not received any claims till 25th September, 2007. The official liquidator, who is present in the court states that even after filing of this affidavit, he has not received any claims till this date. Moreover, the official liquidator has not taken charge of the assets of the company. Mr.Sawant, learned counsel for the petitioner in company

petition No.698 of 2000, on instructions, from his client states that the company has satisfied their claim and he has instructions not to prosecute this petition any further and, therefore, has come forward with this application seeking recall of the order of winding up dated 2nd August, 2005. No creditor has come forward making any claim against the applicant-company or before this court opposing their prayer in this application. Similarly, none of the creditors have come forward seeking the order of winding up. Keeping that in view and considering that the company has paid off its debts and considering that no other creditor has come forward in support of the winding up I find no reason not to grant prayers in the present application. In the result this application is made absolute in terms of prayer clause (a) subject to payment of cost of Rs.5,000/- to be remitted to the official liquidator within a period of four weeks from today. Company petition No.698 of 2000 is dismissed as not pressed. Company application and company petition, accordingly, stand disposed of.

(D.B.BHOSALE, J.)